

November 20, 2007

Ms. Pam Grubaugh-Littig
Permit Supervisor
Utah Division of Oil, Gas and Mining
1594 West North Temple, Suite 1210
Salt Lake City, Utah 84114-5801

Incoming
C/007/0005
#2874

RE: Supplemental Information #2874, North Lease Incidental Boundary Change (IBC),
Canyon Fuel Company, LLC, Skyline Mine, C/007/005,

Dear Ms. Grubaugh-Littig:

Please find enclosed with this letter modifications to the M&RP submitted as supplemental information to Task ID #2874. Based on conversations with Mr. Wayne Western, he recommended the information be submitted as soon as possible – not waiting for a possible deficiency letter to be drafted from the Division. The only change was a small modification to the legal description affecting the northern portion of the IBC.

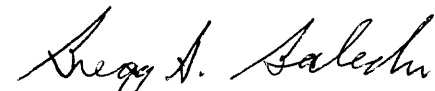
Revised letters were also sent out to affected landowners identifying portions of their property affected by the proposed Incidental Boundary Change (IBC).

Also included is a letter addressed to you outlining the separation of coal ownership and surface ownership. This letter indicates the revision necessary in both the June and October submittals. Copies of the letter are included in the amendment with instructions (C2 form) that the letter be included in the M&RP (Appendix 118).

The submittal includes completed C1 and C2 forms, an application guidance document – identifying where pertinent regulations are addressed, and eight (8) copies of both clean and redline versions of the text modifications.

If you have any questions, please call me at (435) 448-2636.

Sincerely,



Gregg A. Galecki
Environmental Coordinator, Skyline Mine
Canyon Fuel Company, LLC
enclosures

RECEIVED

NOV 28 2007

DIV. OF OIL, GAS & MINING



Canyon Fuel
Company, LLC.
Skyline Mine

A Subsidiary of Arch Western Bituminous Group, LLC.

Gregg Galecki, Environmental Eng.
HCR 35, Box 380
Helper, UT 84526
(435) 448-2626 - Office
(435) 448-2632 - Fax

November 20, 2007

Ms. Pamela Grubaugh-Littig
Utah Coal Program
Utah Division of Oil, Gas & Mining
1594 West North Temple, Suite 1210
P.O. Box 145801
Salt Lake City, Utah 84144-5801

RE: Incidental Boundary Change (IBC) to include S1/2S1/2 Section 36, T 12 South, Range 6 East, and the W1/2 of Section 1, the W1/2SE1/4 of Section 1, the N1/2NW1/4 of Section 12, and the SW1/4NW1/4 of Section 12, Township 13 South, Range 6 East, SLB&M

Dear Pam:

Please note, this correspondence is a follow up to similar letters sent both June 15, 2007, and October 30, 2007. The legal description on the October 30, 2007 correspondence incorrectly identified the S1/2S1/2 of Section 36, Township 12 South, Range 6 East, as the S1/4 of the said section. The area is correctly identified as the S1/2S1/2 of Section 36, Township 12 South, Range 6 East.

Canyon Fuel Company, LLC (CFC), Skyline Mine intends to mine portions of the S1/2S1/2 of Section 36, Township 12 South Range 6 East, the W1/2 of Section 1, the W1/2SE1/4 of Section 1, the N1/2NW1/4 of Section 12, and the SW1/4NW1/4 of Section 12, Township 13 South, Range 6 East, SLB&M in coal that the company has leased from Carbon County and C&B Energy. The current surface land owners are the Allred Family Trust administered by Phil Allred, and Koula Marakis Trust administered by George E. and Helen Liodakis and Liodakis Ranch, LLC. CFC has notified the two trust administrators this area of their property will be undermined as main entries and room-and-pillar areas are developed from the existing Skyline Mine works toward areas north of Winter Quarters Canyon. In good-faith, Skyline Mine has confidential agreements in place with both of these family trusts that addresses undermining their property. CFC Skyline Mine will first-mine only in the portions of the Carbon County and C&B Energy leases described and no subsidence will occur as a result of the mining.

Utah Administrative Code **R645-301-114.200** relating to the general contents of a coal permit application provides that where the private mineral estate to be mined has been severed from the private surface estate, an applicant will submit one of the following: 1) a copy of the written consent of the surface owner, or 2) a copy of the conveyance that expressly grants or reserves the right to extract coal by certain coal mining and reclamation operations, or 3) documentation that the applicant has the legal authority under Utah law to extract the coal by the proposed operations. CFC Skyline Mine submits that it meets the requirements set forth under **114.210, 114.220, and 114.230**.

CFC Skyline Mine has been granted valid coal leases from Carbon County and C&B Energy, the owners of the coal estate, to conduct underground mining of coal in the S1/2S1/2 of Section 36, Township 12 South Range 6 East, the W1/2 of Section 1, the W1/2SE1/4 of Section 1, the N1/2NW1/4 of Section 12, and the SW1/4NW1/4 of Section 12, Township 13 South, Range 6 East, SLB&M, respectively. See, Amended Section 5 of *Consent, Ratification, and Amendment of Lease and Agreement*. Utah law recognizes the general rule that the rights of the owner (or rights of a lessee) of mineral rights in land are dominant over the rights of the owner of the fee to the extent reasonably necessary to extract the minerals from the affected lands. *Flying Diamond vs. Rust*, 551 P.2d 509 (Utah 1976) (copy attached to

8/8/02 letter to DOGM, Appendix 118A of currently approved M&RP). The Utah Supreme Court has clearly adopted the principle that wherever there exists separate ownerships of interest in the same land, "each (party) should have the right to the use and enjoyment of his interest in the property to the highest degree possible not inconsistent with the rights of the other." *Flying Diamond* at 511. The dominant right of the mineral estate is qualified: the mineral owner or lessee must exercise his or her rights only as "reasonably necessary" and consistent with allowing the fee owner "the greatest possible use of his property." *Smith vs. Linmar Energy Corp.*, 790 P. 2d 1222, 1224 (Utah App. 1990) (copy attached to 8/8/02 letter to DOGM, Appendix 118A of currently approved M&RP).

Under the current permit application, CFC Skyline Mine proposes to conduct underground mining below the fee surface without material damage to the surface resulting from either direct surface access or subsidence. Consequently, CFC Skyline is exercising its rights to mine the Carbon County and C&B Energy leases with respect to the fee surface consistent with Utah law in a "reasonably necessary" manner while allowing the fee surface owner "the greatest possible use of his property".

If you have any questions regarding this matter, please call me at (435) 448-2636

Sincerely,

A handwritten signature in cursive script, appearing to read "Gregg A. Galecki".

Gregg A. Galecki
Environmental Engineer, Skyline Mine
Canyon Fuel Company, LLC

APPLICATION FOR COAL PERMIT PROCESSING

Permit Change ☒ New Permit ☐ Renewal ☐ Exploration ☐ Bond Release ☐ Transfer ☐

Permittee: Canyon Fuel Company, LLC

Mine: Skyline Mine

Permit Number: C/007/005

Title: Incidental Boundary Change (IBC) in North Lease

Description, Include reason for application and timing required to implement:

North Lease IBC - Supplemental Information # 2874

Instructions: If you answer yes to any of the first eight (gray) questions, this application may require Public Notice publication.

- ☒ Yes ☐ No 1. Change in the size of the Permit Area? Acres: 680 Disturbed Area: _____ ☐ increase ☐ decrease.
- ☐ Yes ☒ No 2. Is the application submitted as a result of a Division Order? DO# _____
- ☐ Yes ☒ No 3. Does the application include operations outside a previously identified Cumulative Hydrologic Impact Area?
- ☐ Yes ☒ No 4. Does the application include operations in hydrologic basins other than as currently approved?
- ☐ Yes ☒ No 5. Does the application result from cancellation, reduction or increase of insurance or reclamation bond?
- ☐ Yes ☒ No 6. Does the application require or include public notice publication?
- ☒ Yes ☐ No 7. Does the application require or include ownership, control, right-of-entry, or compliance information?
- ☐ Yes ☒ No 8. Is proposed activity within 100 feet of a public road or cemetery or 300 feet of an occupied dwelling?
- ☐ Yes ☒ No 9. Is the application submitted as a result of a Violation? NOV # _____
- ☐ Yes ☒ No 10. Is the application submitted as a result of other laws or regulations or policies?
- Explain:* _____
- ☐ Yes ☒ No 11. Does the application affect the surface landowner or change the post mining land use?
- ☐ Yes ☒ No 12. Does the application require or include underground design or mine sequence and timing? (Modification of R2P2)
- ☐ Yes ☒ No 13. Does the application require or include collection and reporting of any baseline information?
- ☐ Yes ☒ No 14. Could the application have any effect on wildlife or vegetation outside the current disturbed area?
- ☐ Yes ☒ No 15. Does the application require or include soil removal, storage or placement?
- ☐ Yes ☒ No 16. Does the application require or include vegetation monitoring, removal or revegetation activities?
- ☐ Yes ☒ No 17. Does the application require or include construction, modification, or removal of surface facilities?
- ☐ Yes ☒ No 18. Does the application require or include water monitoring, sediment or drainage control measures?
- ☐ Yes ☒ No 19. Does the application require or include certified designs, maps or calculation?
- ☐ Yes ☒ No 20. Does the application require or include subsidence control or monitoring?
- ☐ Yes ☒ No 21. Have reclamation costs for bonding been provided?
- ☐ Yes ☒ No 22. Does the application involve a perennial stream, a stream buffer zone or discharges to a stream?
- ☐ Yes ☒ No 23. Does the application affect permits issued by other agencies or permits issued to other entities?

Please attach four (4) review copies of the application. If the mine is on or adjacent to Forest Service land please submit five (5) copies, thank you. (These numbers include a copy for the Price Field Office)

I hereby certify that I am a responsible official of the applicant and that the information contained in this application is true and correct to the best of my information and belief in all respects with the laws of Utah in reference to commitments, undertakings, and obligations, herein.

Wesley K Sorensen
Print Name

Wesley K Sorensen
Sign Name, Position, Date
General Manager 11/21/07

Subscribed and sworn to before me this 20th day of NOV, 2007

Kathleen Atwood
Notary Public

My commission Expires: 12/02, 2007
Attest: State of Utah } ss:
County of Carbon



For Office Use Only:

Assigned Tracking
Number:

Received by Oil, Gas & Mining

RECEIVED

NOV 28 2007

DIV. OF OIL, GAS & MINING

APPLICATION FOR COAL PERMIT PROCESSING

Detailed Schedule Of Changes to the Mining And Reclamation Plan

Permittee: Canyon Fuel Company, LLC

Mine: Skyline Mine

Permit Number: C/007/005

Title: North Lease IBC - Supplemental Information # 2874

Provide a detailed listing of all changes to the Mining and Reclamation Plan, which is required as a result of this proposed permit application. Individually list all maps and drawings that are added, replaced, or removed from the plan. Include changes to the table of contents, section of the plan, or other information as needed to specifically locate, identify and revise the existing Mining and Reclamation Plan. Include page, section and drawing number as part of the description.

DESCRIPTION OF MAP, TEXT, OR MATERIAL TO BE CHANGED

[illegible]

Any other specific or special instruction required for insertion of this proposal into the Mining and Reclamation Plan.

Eight (8) redline/strikeout copies and eight (8) clean copies submitted.

Received by Oil, Gas & Mining

RECEIVED

NOV 28 2007

DIV. OF OIL, GAS & MINING

Main entries in the mines are advanced so that mining panels may be developed on one or both sides. These panels are usually 2,500 to 7,000 feet long and 400 to 800 feet wide. The panels will be mined by driving rooms or by retreat-type operations where coal is mined as Room and Pillar Mining. Where feasible, the coal will be removed by a longwall operation. The panels will then be "pulled" consecutively to the barrier, leaving the main entries intact.

The mains developed to access the North Lease area will be driven through the SW1/4 SW 1/4 of Section 12, Township 13 South, Range 6 East. Multiple entries will be driven north from existing workings within the unsealed southeastern portion of Mine 3 workings (Drawing 3.1.8-2). As the mains approach the northeast portion of the abandoned Mine 3 workings, they will be angled downward to go under the abandoned workings instead of through. This portion of Mine 3 was flooded by pumping water from Mine 2 into Mine 3 beginning in March 1999. This pumping continued until August 2002. At that time, the water level in the abandoned Mine 3 was reduced in the abandoned portion of Mine 3 to an elevation below the northeast corner of Mine 3 and at or below the level of the new entries. Draining of Mine 3 continues as mining advances north, west and down dip of the Mine 3 workings. Removing the water from the abandoned portion of Mine 3 removes the risk of flooding the new entries from water in Mine 3.

The abandoned Winter Quarters Mine workings are illustrated on Drawing 3.1.8-2. The new entries to the North Lease area are driven at least 300 feet horizontally from the closest point in the abandoned Winter Quarters Mine. As required by MSHA, exploratory drilling was conducted at required intervals to ensure Skyline Mine does not intercept the abandoned Winter Quarters Mine.

In the North Lease, longwall mining is scheduled to commence in early 2006. Undermining of portions of Winter Quarters Creek and Woods Canyon creek are planned, but only minor surface subsidence is anticipated. A portion of land, approximately 397-acres, located on the north side of Winter Quarters Creek is identified as a potential first-mining area. Based on BLM recommendations for Maximum Economic Recovery (MER), the area will be mined by conventional methods should suitable conditions exist. No subsidence is anticipated in this area, should this area be determined to be mineable.

In 2007, due to a change in the longwall panel configuration in the North Lease located north of Winter Quarters Canyon an Incidental Boundary Change (IBC) modification was added to the permit.

Development / conventional mining in portions of the S1/2 S1/2 of Section 36, Township 12 South, Range 6 East, the W1/2 of Section 1, the W1/2SE1/4 Section 1, the N1/2 NW1/4 of Section 12, and the SW1/4NW1/4 of Section 12, Township 13 South, Range 6 East was added. No subsidence or surface disturbance is anticipated in this area based on the proposed activity.

3.1.3 Method of Mining

In order to achieve maximum coal reserve recovery and enhance overall production rates, the mining plan, as developed to date and herein proposed, involves two mining methodologies most appropriate for

Revised: 11/20/07

3-6

Skyline's coal reserves. The mines are developed using continuous miners to drive entries which are connected with cross cuts. Continuous miners are also used for retreat room and pillar mining. The room and pillar method of mining is being implemented in particular situations for which longwall mining is inappropriate. The longwall mining system will be used to extract the majority of the Skyline coal.

Longwall Mining

Longwall mining is proposed for the extraction of large uniform blocks of mineable coal, resulting in increased production rates and overall recovery. Mine layouts are based on longwall mining in areas where the panels generally are more than 2,500 feet in length and where a suitable longwall panel can be constituted. The 2,500 foot length is used however only as a guideline, and may vary significantly depending upon physical as well as economic factors. Recoverable coal reserves in longwall mining areas are based on mining a maximum thickness of fifteen feet.

The longwall mining operation utilizes at least two sizes of equipment in order to mine the variations in seam thickness locally encountered. Lower equipment will be used for mining down to 5 feet of coal thickness, and larger equipment will be used to mine thicknesses of at least 15 feet.

In areas where coal is thicker than the height capacity of the mining equipment, the unmined coal will be left in the bottom of the bed, unless economic or safety conditions or operation constraints warrant otherwise.

A high overall recovery of reserves can be expected as the longwall unit retreats through a panel. Pillars in developed entries will be left to protect adjacent panels. Longwall mining results in controlled surface subsidence in that small coal pillars and stumps are not left behind resulting in unpredictable surface behavior. A predictable uniform lowering of the surface will occur.

Main entries in the mines are advanced so that mining panels may be developed on one or both sides. These panels are usually 2,500 to 7,000 feet long and 400 to 800 feet wide. The panels will be mined by driving rooms or by retreat-type operations where coal is mined as Room and Pillar Mining. Where feasible, the coal will be removed by a longwall operation. The panels will then be "pulled" consecutively to the barrier, leaving the main entries intact.

The mains developed to access the North Lease area will be driven through the SW1/4 SW 1/4 of Section 12, Township 13 South, Range 6 East. Multiple entries will be driven north from existing workings within the unsealed southeastern portion of Mine 3 workings (Drawing 3.1.8-2). As the mains approach the northeast portion of the abandoned Mine 3 workings, they will be angled downward to go under the abandoned workings instead of through. This portion of Mine 3 was flooded by pumping water from Mine 2 into Mine 3 beginning in March 1999. This pumping continued until August 2002. At that time, the water level in the abandoned Mine 3 was reduced in the abandoned portion of Mine 3 to an elevation below the northeast corner of Mine 3 and at or below the level of the new entries. Draining of Mine 3 continues as mining advances north, west and down dip of the Mine 3 workings. Removing the water from the abandoned portion of Mine 3 removes the risk of flooding the new entries from water in Mine 3.

The abandoned Winter Quarters Mine workings are illustrated on Drawing 3.1.8-2. The new entries to the North Lease area are driven at least 300 feet horizontally from the closest point in the abandoned Winter Quarters Mine. As required by MSHA, exploratory drilling was conducted at required intervals to ensure Skyline Mine does not intercept the abandoned Winter Quarters Mine.

In the North Lease, longwall mining is scheduled to commence in early 2006. Undermining of portions of Winter Quarters Creek and Woods Canyon creek are planned, but only minor surface subsidence is anticipated. A portion of land, approximately 397-acres, located on the north side of Winter Quarters Creek is identified as a potential first-mining area. Based on BLM recommendations for Maximum Economic Recovery (MER), the area will be mined by conventional methods should suitable conditions exist. No subsidence is anticipated in this area, should this area be determined to be mineable.

In 2007, due to a change in the longwall panel configuration in the North Lease located north of Winter Quarters Canyon an Incidental Boundary Change (IBC) modification was added to the permit. Development / conventional mining in portions of the S1/2S1/2 of Section 36, Township 12 South, Range 6 East, the W1/2 of Section 1, the W1/2SE1/4 Section 1, the N1/2 NW1/4 of Section 12, and the SW1/4NW1/4 of Section 12, Township 13 South, Range 6 East was added. No subsidence or surface disturbance is anticipated in this area based on the proposed activity.

3.1.3 Method of Mining

In order to achieve maximum coal reserve recovery and enhance overall production rates, the mining plan, as developed to date and herein proposed, involves two mining methodologies most appropriate for Skyline's coal reserves. The mines are developed using continuous miners to drive entries which are connected with cross cuts. Continuous miners are also used for retreat room and pillar mining. The room and pillar method of mining is being implemented in particular situations for which longwall mining is inappropriate. The longwall mining system will be used to extract the majority of the Skyline coal.

Longwall Mining

Longwall mining is proposed for the extraction of large uniform blocks of mineable coal, resulting in increased production rates and overall recovery. Mine layouts are based on longwall mining in areas where the panels generally are more than 2,500 feet in length and where a suitable longwall panel can be constituted. The 2,500 foot length is used however only as a guideline, and may vary significantly depending upon physical as well as economic factors. Recoverable coal reserves in longwall mining areas are based on mining a maximum thickness of fifteen feet.

The longwall mining operation utilizes at least two sizes of equipment in order to mine the variations in seam thickness locally encountered. Lower equipment will be used for mining down to 5 feet of coal thickness, and larger equipment will be used to mine thicknesses of at least 15 feet.

In areas where coal is thicker than the height capacity of the mining equipment, the unmined coal will be left in the bottom of the bed, unless economic or safety conditions or operation constraints warrant otherwise.

A high overall recovery of reserves can be expected as the longwall unit retreats through a panel. Pillars in developed entries will be left to protect adjacent panels. Longwall mining results in controlled surface subsidence in that small coal pillars and stumps are not left behind resulting in unpredictable surface behavior. A predictable uniform lowering of the surface will occur.



Canyon Fuel
Company, LLC.
Skyline Mine

A Subsidiary of Arch Western Bituminous Group, LLC.

Wess Sorensen, Mine Manager
HCR 35, Box 380
Helper, UT 84526
(435) 448-2619 - Office
(435) 448-2632 - Fax

Via Certified Mail

November 20, 2007

Mr. Phil Allred
P.O. Box 96
Fountain Green, Utah 84632

RE: Canyon Fuel Company, LLC, Skyline Mine, Entry and Room Development in portions of the S1/4 of Section 36, Township 12S Range 6 East, SLB&M, and the NW1/4 of Section 1 located north of Winter Quarters Creek, Township 13 South, Range 6 East, SLB&M.

Dear Mr. Allred:

Please note, this correspondence is a follow up to similar letters sent both June 15, 2007 and October 17, 2007. The October correspondence incorrectly identified the S1/2S1/2 of Section 36, Township 12 South, Range 6 East as the S1/4 of said Section. The following legal description identifies the entire area that is being permitted through the Utah Division of Oil, Gas, and Mining.

As required by State mining regulations (R645-301-525.700), Canyon Fuel Company, LLC (CFC) Skyline Mine is notifying you of the mine's plan to expand its permit area in a portion of the S1/2S1/2 of Section 36, Township 12 South, Range 6 East, SLB&M, and portions of the NW1/4 of Section 1 located north of Winter Quarters Creek, Township 13 South, Range 6 East, SLB&M. The area will encompass approximately 112 acres of mine development, with the permitted area located on your property being expanded by a total of approximately 296 acres. CFC currently holds the coal leases in this area and will be developing main entries as access to additional coal resources north of Winter Quarters Canyon. Mining is projected to begin in January 2008. No subsidence or surface disturbance will occur as the result of the mining in any of the areas identified in Section 1. Subsidence may occur in some of the area identified in Section 36; not as a part of the current activity, but possibly with future longwall mining. No surface disturbance will occur with the currently proposed development in Section 36. No surface or ground water will be interrupted or diminished as a result of the mining activity. Copies of the mine plan may be examined at the Carbon County Courthouse or at the Division of Oil, Gas, and Mining offices in Salt Lake City.

If you have any questions regarding this letter or would like to discuss future mining plans for the above referenced sections, please call Mark Bunnell at (435) 448-2366 or me at (435) 448-2619. Skyline Mine apologizes for the need of this additional correspondence.

Sincerely,

Wess Sorensen
Mine Manager, Skyline Mine
Canyon Fuel Company, LLC

Cx: Pamela Grubaugh-Littig, Utah Division of Oil, Gas & Mining



Canyon Fuel
Company, LLC.
Skyline Mine

A Subsidiary of Arch Western Bituminous Group, LLC.

Wess Sorensen, Mine Manager
HCR 35, Box 380
Helper, UT 84526
(435) 448-2619 - Office
(435) 448-2632 - Fax

Via Certified Mail

November 20, 2007

Price River Water Users Association
90 North 100 East
Price, Utah 84501

RE: Canyon Fuel Company, LLC, Skyline Mine, Entry and Room Development in portions of the S1/2S1/2 Section 36, T 12 South, Range 6 East, and the W1/2 of Section 1, the W1/2SE1/4 of Section 1, the N1/2NW1/4 of Section 12, and the SW1/4NW1/4 of Section 12, Township 13 South, Range 6 East, SLB&M

Dear Sirs:

Please note, this correspondence is a follow up to similar letters sent both June 15, 2007, and October 17, 2007. The legal description on the October 17, 2007 correspondence incorrectly identified the S1/2S1/2 of Section 36, T12S, R6E, as the S1/4 of said Section. The area is correctly identified as the S1/2S1/2 of Section 36, Township 12 South, Range 6 East.

As required by State mining regulations (R645-301-525.700), Canyon Fuel Company, LLC (CFC) Skyline Mine is notifying you of the mine's plan to expand its permit area by approximately 680 acres in portions of the S1/2S1/2 Section 36, T 12 South, Range 6 East, and the W1/2 of Section 1, the W1/2SE1/4 of Section 1, the N1/2NW1/4 of Section 12, and the SW1/4NW1/4 of Section 12, Township 13 South, Range 6 East, SLB&M. CFC currently holds the coal leases in this area and will be developing main entries as access to additional coal resources north of Winter Quarters Canyon, and some room-and-pillar mining. Mining is projected to begin in January 2008. No subsidence or surface disturbance will occur as the result of developing the mains or room-and-pillar mining. No surface or ground water will be interrupted or diminished as a result of the mining activity. Copies of the mine plan may be examined at the Division of Oil, Gas, and Mining offices in Salt Lake City.

If you have any questions regarding this letter or would like to discuss future mining plans for the above referenced sections, please call Mark Bunnell at (435) 448-2366 or me at (435) 488-2619. Skyline Mine apologizes for the need of this additional correspondence.

Sincerely,

Wess Sorensen
Mine Manager, Skyline Mine
Canyon Fuel Company, LLC

Cc: Pamela Grubaugh-Littig, Utah Division of Oil, Gas & Mining



Canyon Fuel
Company, LLC.
Skyline Mine

A Subsidiary of Arch Western Bituminous Group, LLC.

Gregg Galecki, Environmental Eng.
HCR 35, Box 380
Helper, UT 84526
(435) 448-2626 - Office
(435) 448-2632 - Fax

November 20, 2007

Ms. Pamela Grubaugh-Littig
Utah Coal Program
Utah Division of Oil, Gas & Mining
1594 West North Temple, Suite 1210
P.O. Box 145801
Salt Lake City, Utah 84144-5801

RE: Incidental Boundary Change (IBC) to include S1/2S1/2 Section 36, T 12 South, Range 6 East, and the W1/2 of Section 1, the W1/2SE1/4 of Section 1, the N1/2NW1/4 of Section 12, and the SW1/4NW1/4 of Section 12, Township 13 South, Range 6 East, SLB&M

Dear Pam:

Please note, this correspondence is a follow up to similar letters sent both June 15, 2007, and October 30, 2007. The legal description on the October 30, 2007 correspondence incorrectly identified the S1/2S1/2 of Section 36, Township 12 South, Range 6 East, as the S1/4 of the said section. The area is correctly identified as the S1/2S1/2 of Section 36, Township 12 South, Range 6 East.

Canyon Fuel Company, LLC (CFC), Skyline Mine intends to mine portions of the S1/2S1/2 of Section 36, Township 12 South Range 6 East, the W1/2 of Section 1, the W1/2SE1/4 of Section 1, the N1/2NW1/4 of Section 12, and the SW1/4NW1/4 of Section 12, Township 13 South, Range 6 East, SLB&M in coal that the company has leased from Carbon County and C&B Energy. The current surface land owners are the Allred Family Trust administered by Phil Allred, and Koula Marakis Trust administered by George E. and Helen Liodakis and Liodakis Ranch, LLC. CFC has notified the two trust administrators this area of their property will be undermined as main entries and room-and-pillar areas are developed from the existing Skyline Mine works toward areas north of Winter Quarters Canyon. In good-faith, Skyline Mine has confidential agreements in place with both of these family trusts that addresses undermining their property. CFC Skyline Mine will first-mine only in the portions of the Carbon County and C&B Energy leases described and no subsidence will occur as a result of the mining.

Utah Administrative Code **R645-301-114.200** relating to the general contents of a coal permit application provides that where the private mineral estate to be mined has been severed from the private surface estate, an applicant will submit one of the following: 1) a copy of the written consent of the surface owner, or 2) a copy of the conveyance that expressly grants or reserves the right to extract coal by certain coal mining and reclamation operations, or 3) documentation that the applicant has the legal authority under Utah law to extract the coal by the proposed operations. CFC Skyline Mine submits that it meets the requirements set forth under **114.210, 114.220, and 114.230**.

CFC Skyline Mine has been granted valid coal leases from Carbon County and C&B Energy, the owners of the coal estate, to conduct underground mining of coal in the S1/2S1/2 of Section 36, Township 12 South Range 6 East, the W1/2 of Section 1, the W1/2SE1/4 of Section 1, the N1/2NW1/4 of Section 12, and the SW1/4NW1/4 of Section 12, Township 13 South, Range 6 East, SLB&M, respectively. See, Amended Section 5 of *Consent, Ratification, and Amendment of Lease and Agreement*. Utah law recognizes the general rule that the rights of the owner (or rights of a lessee) of mineral rights in land are dominant over the rights of the owner of the fee to the extent reasonably necessary to extract the minerals from the affected lands. *Flying Diamond vs. Rust*, 551 P.2d 509 (Utah 1976) (copy attached to

8/8/02 letter to DOGM, Appendix 118A of currently approved M&RP). The Utah Supreme Court has clearly adopted the principle that wherever there exists separate ownerships of interest in the same land, "each (party) should have the right to the use and enjoyment of his interest in the property to the highest degree possible not inconsistent with the rights of the other." *Flying Diamond* at 511. The dominant right of the mineral estate is qualified: the mineral owner or lessee must exercise his or her rights only as "reasonably necessary" and consistent with allowing the fee owner "the greatest possible use of his property." *Smith vs. Linmar Energy Corp.*, 790 P. 2d 1222, 1224 (Utah App. 1990) (copy attached to 8/8/02 letter to DOGM, Appendix 118A of currently approved M&RP).

Under the current permit application, CFC Skyline Mine proposes to conduct underground mining below the fee surface without material damage to the surface resulting from either direct surface access or subsidence. Consequently, CFC Skyline is exercising its rights to mine the Carbon County and C&B Energy leases with respect to the fee surface consistent with Utah law in a "reasonably necessary" manner while allowing the fee surface owner "the greatest possible use of his property".

If you have any questions regarding this matter, please call me at (435) 448-2636

Sincerely,



Gregg A. Galecki
Environmental Engineer, Skyline Mine
Canyon Fuel Company, LLC